

Before the
Administrative Hearing Commission
State of Missouri



MISSOURI REAL ESTATE COMMISSION,)	
)	
Petitioner,)	
)	
vs.)	No. 13-1499 RE
)	
JOSEPH RAYMOND FULGENZI,)	
)	
Respondent.)	

**DECISION DENYING MOTION TO RECONSIDER
AND DISMISSING CASE**

On January 28, 2014, we issued our order granting part of the Missouri Real Estate Commission's (MREC) motion for summary decision. We concluded that Joseph Raymond Fulgenzi's license is subject to discipline on some, but not all, charges in the complaint.

On February 3, 2014, the MREC filed a "Response to Order" that, because of its content, we consider a motion for reconsideration. We have the authority to reconsider our decisions.¹ The MREC asks us to reconsider our determination that the criminal offense of tax evasion under 26 USC § 7201 is a Category 3 crime and thus we need further evidence before we can find that it is a crime involving moral turpitude. We determined that dishonesty is an essential element of the crime, which would appear to support a finding that the crime involved moral turpitude under Category 1. However, we must also consider that a Missouri case cited "willful failure to pay

¹ *Woodman v. Director of Revenue*, 8 S.W.3d 154 (Mo. App., W.D. 1999).

income tax” as an example of a Category 3 crime.² Following *Brehe*, we deny the motion for reconsideration.

The MREC states that, if we deny the motion to reconsider, it will not present at the hearing and we may cancel it. We consider this a motion to dismiss without prejudice the charges on which we did not find cause for discipline.³ Therefore, those charges are dismissed and the hearing scheduled for February 25, 2014, is cancelled.

We incorporate by reference our January 28, 2014, order into this final decision and will certify our record to the MREC in thirty days.

SO ORDERED on February 5, 2014.

/s/ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner

² *Brehe v. Missouri Dep’t of Elementary and Secondary Education*, 213 S.W.3d 720, 725 (Mo. App., W.D. 2007) (quoting *Twentieth Century-Fox Film Corp. v. Lardner*, 216 F.2d 844, 852 (9th Cir. 1954)).

³ Regulation 1 CSR 15-3.431(1)(B).